



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

HC

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|------------------------|---------------------|------------------|
| 09/954,443      | 09/17/2001  | James Robert Adair JR. | 17244-0129          | 6585             |

29052 7590 12/31/2002

SUTHERLAND ASBILL & BRENNAN LLP  
999 PEACHTREE STREET, N.E.  
ATLANTA, GA 30309

EXAMINER

TRUONG, THANH K

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 3721     |              |

DATE MAILED: 12/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

HCT

|                              |                            |                  |
|------------------------------|----------------------------|------------------|
| <b>Office Action Summary</b> | Application No.            | Applicant(s)     |
|                              | 09/954,443                 | ADAIR ET AL.     |
|                              | Examiner<br>Thanh K Truong | Art Unit<br>3721 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 September 2001.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-26 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-26 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

|   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1-8 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakamura et al. (6,301,859).

Nakamura et al. discloses (figures 10, 11A & 11B) a heat seal die comprising: a first and second die members 15 having longitudinal axis and die face; a first and second heating elements 24; a first and second longitudinal heat tubes 26 (a & b) disposed in the first and second die member between the heating element and the die face for maintaining a uniform heat seal temperature along the die face.

Nakamura et al. further discloses the longitudinal heat tube extends from the one end to the other end of the die member; and the heating element 24 is a heating cartridge disposed in a longitudinal bore 23 (a & b) in the die member; the die face of the first die member 15 has plurality of alternating longitudinal lands and grooves 19 and the second die member 15 has plurality of alternating longitudinal lands and grooves 19, the lands and grooves of the first and second die members are arranged for selective mating arrangement; the die member each has longitudinal sides and a raised portion and sloping walls; and the die member each has a temperature sensor 28 disposed in the downwardly facing longitudinal side.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9-12 & 14-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. (6,301,859) in view of Boeckmann (4,896,048).

As discussed above in paragraph 2 of this office action, Nakamura et al. discloses the claimed invention, except for a system and method comprising: heat sealable material feeder; flowable material feeder and a form/fill/seal apparatus.

Boeckmann discloses a system and method comprising: a heat sealable material 10 feeder; a flowable material feeder 11; and a form/fill/seal apparatus (figure 1) that forming a package with heat sealable film, filling the package with flowable material and sealing the package. The system provides an improved method and apparatus to manufacture packages which is capable of forming cross seals that are air and liquid-tight (column 1, lines 41-44).

Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to combine and modify Nakamura et al. and Boeckmann teachings to provide a method and a system that include a heat sealable material feeder; flowable material feeder and a form/fill/seal apparatus that is effective in producing airtight and leak-proof packages.

Regarding claims 11 and 20, although neither Nakamura et al. nor Boeckmann mentioned the size of the package being made. It would have been obvious to one

having ordinary skill in the art at the time the invention was made to produce packages of portion size in the range of one desire, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K Truong whose telephone number is (703) 605-0423. The examiner can normally be reached on Mon-Thurs from 8:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-7769 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



tkt  
December 26, 2002

Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700